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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,134	10/03/2001	Truc D. Nguyen	66329/14561	2126

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EXAMINER	
PHAM, CHRYSTINE	
ART UNIT	**PAPER NUMBER**
2192	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/970,134	NGUYEN ET AL.	
	Examiner	Art Unit	
	Chrystine Pham	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *39-59,62-68,71 and 72* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *39-59,62-68,71 and 72* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/22/2007 has been entered.

2. This action is responsive to Amendment filed on 10/22/2007. Claims 39, 47, 55, 56, 64 and 65 have been amended. Claims 60-61 and 69-70 have been canceled. Claims 39-59, 62-68 and 71-72 are pending.

Response to Arguments

3. Applicant's arguments filed 10/22/2007 have been fully considered but they are not persuasive.

Applicant first asserts that "the Examiner is an [sic] attempting to build the claimed elements using Applicants' own teach as a roadmap to reconstruct the claims in a piecemeal fashion..." (Remarks, page 11 of 13, 3rd paragraph). The Examiner strongly and respectfully disagrees. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which

was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Furthermore, applicant's argument fails to comply with 37 CFR 1.111(b) because it amounts to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to applicant's assertion that Rosen, Henry, Cantwell and Williams are "disparate art" and contain "extensive differences" (Remarks, page 12 of 13, 2nd & last paragraphs), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant further asserts, "Independent claims 39, 47, 55 and 64 have been amended to include limitations wherein a **user specifies** driver selection and **operating system selection, via a graphical user interface**" (Emphasis added)(Remarks, page 12 of 13, last paragraph). The Examiner strongly disagrees.

Contrary to Applicant's argument, no where in the claims requires *receiving user input, wherein the user input specifies "operating system data"* representative of an operating system type. Rather, claims 39, 47, 55 and 64 merely claim [means adapted for] or [steps of] "receiving operating system data representative of an operating system type". In other words, the step or the means of "receiving operating system data" is done automatically (i.e., without requiring/receiving explicit user input via the graphical user interface specifying operating system type). That is to say, the "operating system data" is detected and obtained (i.e., received) automatically by the method. Since, the claims merely recite "receiving operating system data" (as opposed to requiring explicit user input specifying operating system data), this limitation of the claims is read on by Williams, which discloses a method and system for installing peripheral drivers on targ device based on the specific operating system (i.e., automatically detected/received) of the target device.

4. In view of the foregoing discussion, rejection of claims under 35 USC 103(a) is considered proper and maintained.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 39-40, 42-45, 47, 48, 50-53, 55-56, 58-62, 64-65, 67-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen of record (US 2003/0048473 A1) in view of Henry et al. (US 6681392, hereinafter Henry) in view of Cantwell (US 6594690 B2) further in view of Williams et al. (US 6,671,749 B2, "Williams").

Claim 39

Rosen teaches a system for network-based uploading (i.e., providing) of drivers (i.e., device software) (see at least *414, 412, 410* Fig.4 & associated text; *printer drivers 414, printer 402 or 404* paragraph [0038]; paragraph [0012]) for document processing devices (i.e., network peripheral devices or printers) (see at least *402, 404* Fig.4 & associated text) comprising:

- means adapted for selectively receiving into a memory means (see at least *memory 112* Fig.1 & associated text) integrated with a document processing controller, a plurality of alternative software drivers (see at least *printer driver 114* Fig.1 & associated text; see *414* FIG.4 & associated text) for use with associated workstations (i.e., client machines) (see at least *computing devices* paragraph [0029]) in data communication with a document processing device means associated with the controller (see at least *print engine, processor, storage device, printer driver, computing device* paragraph [0013]; *communication application 116* Fig.1 & associated text);
- user interface generation means including means adapted for generating a user interface on the associated workstations (see at least paragraph [0021]; steps *302-304* Fig.3 & associated text), which user interface includes data representative of at least one available software driver stored in the memory (see at least *304, 306* Fig.3 & associated text);
- input means adapted for receiving user input (see at least *310* Fig.3 & associated text), via a data communication session initiated via the user interface in accordance with a selection completed via the input means, which user input selectively directs loading of the at least one software driver to a storage area on the associated workstation (i.e., client machine) (see at least *310, 308* Fig.3 & associated text; paragraphs [0033]-[0034], [0043]); and
- means adapted for commencing, in accordance with user input, a transfer (i.e., downloading) of software from the memory to the storage area, the software

including the at least one of software drivers to the storage area (see at least *312* Fig.3 & associated text).

Rosen does not expressly disclose said user interface as a **graphical** user interface and downloading at least one software installation utility associated with at least one of the plurality of software drivers to the workstations from the document processing device. However, Henry teaches a system and method for installing printer drivers in networked computers wherein a graphical user interface is generated to identify the available printer driver and to receive user input directing the loading of the driver to said computers (see at least *Local Printer Install* Fig.2 & associated text; *Local Computer* Fig.3 & associated text; *Printer Drivers* Fig.5 & associated text; *Install GUI 701* Fig.7 & associated text; *802, 803* Fig.8 & associated text) wherein the user selection of the script install option (associated with the selected drivers) (i.e., software installation utility) will automatically install the selected drivers to the remote computers (see at least FIG.2 & associated text) and means adapted for identifying at least one stored executable software installation utility stored in the memory means which corresponds to the at least one of the plurality of software drivers corresponding to received user input (see at least *Local Printer Install* Fig.2 & associated text; *Local Computer* Fig.3 & associated text; *Printer Drivers* Fig.5 & associated text; *Install GUI 701* Fig.7 & associated text; *802, 803* Fig.8 & associated text; FIG.2 & associated text; col.4:56-col.65:6). Rosen and Henry are analogous art because they are directed to installation of printer drivers on networked computers. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of

Henry into that of Rosen for the inclusion of a graphical user interface and downloading the installation utility to the workstation so as to install the at least one software driver thereon. And the motivation for doing so would have been to control the installation of printer drivers on remote computers from a local computer (see at least *Henry* col.2:30-67).

The combined teaching of Rosen and Henry does not expressly the GUI including **a list[ing]** of said each of the plurality of software drivers, ***per se***. However, Cantwell discloses a system and method for installing drivers in network computers (see at least Abstract; FIG.1 & associated text; FIG.2 & associated text) wherein the user interface includes a list of each of the available drivers (see at least *list of drivers* col.1:34-44). Rosen, Henry and Cantwell are analogous art because they are directed to installing drivers for networked computers. It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to incorporate the teaching of Cantwell into that of Rosen and Henry for the inclusion of **a list** of available drivers stored in the memory transmitted from the document processing controller. And the motivation for doing so would have been to allow newly connected networked computers to install more than one printer driver thus enable immediate printing to more than one printers (i.e., document processing controllers) via the network (see at least Rosen paragraph [0042]).

The combined teaching of Rosen, Henry and Cantwell does not expressly disclose "means adapted for receiving operating system data representative of an operating system type" and "said software drivers ... are in accordance with the received operating system data". However, Williams discloses a method for installing peripheral drivers using a driver profile, which comprises the operating system version number that are compatible with the drivers (see at least Abstract; *146, 148* FIG.2 & associated text) and installing the driver that is in accordance with the identified operating system version/language (see at least col.3:9-13; col.5:63-col.6:17). Rosen and Williams are analogous art because they are both directed to software drivers distribution. It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to incorporate the teaching of Williams into that of Rosen for the inclusion of downloading drivers that are compatible with the different target operating systems. And the motivation for doing so would have been to ensure that the downloaded drivers support (i.e., compatible with) different languages/operating systems on the target computers (see at least Williams col.1:22-55).

Claim 40

The rejection of base claim 39 is incorporated. Rosen (as modified by Henry) teaches the graphical user interface generation means further includes means adapted for generating a graphical user interface on the associated workstations, which graphical user interface includes data representative of an alternative software driver to the at least one available software driver, which alternative software driver is stored in

the memory (see at least *printers 402 and 404, download updated printer drivers 414* paragraph [0038]); and the input means includes means adapted for receiving user input, via the graphical user interface, which user inputs directs loading of the alternative software driver to a storage area on the associated workstation (see at least *310* Fig.3 & associated text).

Claim 42

The rejection of base claim 39 is incorporated. Rosen (as modified by Henry) further teaches comprising means adapted for initiating generation of the user interface upon a loading of the at least one of the plurality of available software drivers into the memory associated with the document processing controller (see at least paragraphs [0040]-[0041]; *502-510* Fig.5 & associated text).

Claim 43

The rejection of base claim 39 is incorporated. Rosen (as modified by Henry) further teaches wherein the document processing device includes a printing device, and wherein the software driver is comprised of a printer driver (see at least *print engine 102, printer driver 114* Fig.1 & associated text).

Claim 44

The rejection of base claim 43 is incorporated. Rosen (as modified by Henry) further teaches wherein the storage area includes at least one of a hard disk and non-

volatile memory in data communication with the printing device (see at least *hard disk drive, nonvolatile memory* paragraphs [0027]-[0028]).

Claim 45

The rejection of base claim 43 is incorporated. Rosen further teaches wherein the means adapted for commencing transfer of the at least one of the plurality of software drivers to the storage area includes means adapted for commencing transfer automatically once the user selectively directs loading of the at least one of the plurality of software drivers to the associated storage area (see at least *312* Fig.3 & associated text).

Claims 47, 48, 50-53, 55-56, 58-62, 64-65, 67-71

Claims recite limitations which have been addressed in claim 45, therefore, are rejected for the same reasons cited in claim 45.

7. Claims 41, 49, 57, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen in view of Henry in view of Cantwell further in view of Murata (US 6247081 B1).

Claim 41

The rejection of base claim 40 is incorporated. Rosen, Henry, and Cantwell do not expressly disclose wherein the alternative software driver is one that was previously

loaded on the software workstation so as to facilitate selective rollback to an earlier driver version. However, Murata teaches a system and method of installing device drivers, in which a previously loaded (i.e., installed) driver is re-installed so as to facilitate selective rollback to an earlier driver version (see at least Abstract; col.10:55-65). Murata, Rosen and Henry are analogous art because they are directed to installation of device drivers. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Murata into that of Rosen and Henry for the inclusion of re-installing a previously installed driver version. And the motivation for doing so would have been to provide recovery from corrupted printer drivers, which are downloaded and installed (see at least Murata col.10:55-65).

Claims 49, 57, and 66

Claims recite limitations which have been addressed in claim 41, therefore, are rejected for the same reasons cited in claim 41.

8. Claims 46, 54, 63, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen in view of Henry in view of Cantwell further in view of Slivka et al. of record (US 6256668, hereinafter Slivka).

Claim 46

The rejection of base claim 43 is incorporated. Rosen, Henry, and Cantwell does not expressly disclose wherein the means adapted for commencing transfer of the at

least one of the plurality of software drivers to the storage area includes means adapted for receiving user input to commence transfer once the user selectively directs loading of the at least one of the plurality of software drivers to the associated storage area (see at least col.10:1-17). Slivka, Rosen and Henry are analogous art because they are directed to installation of software. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Slivka into that of Rosen and Henry for the inclusion of receiving user input to commence transfer. And the motivation for doing so would have been to provide a safety and security measure for the user computer (see at least Henry col.10:1-17).

Claims 54, 63 and 72

Claims recite limitations which have been addressed in claims 45 and 46, therefore, are rejected for the same reasons cited in claims 45 and 46.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chrystine Pham whose telephone number is 571-272-3702. The examiner can normally be reached on Mon-Fri, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TUAN DAM
SUPERVISORY PATENT EXAMINER